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NOTIFICATION

ORDER NO. RL. 403/LEGIS. 18-46-1, DATED (CAMP) MYSORE, 4TH OCTOBER 1946.

Ordered that the accompanying Official Secrets (Emergency) Act, 1946, which received the assent of His Highness the Maharaja, on the 1st day of October 1946, be published as Act No. XL of 1946, in the *Mysore Gazette* for general information.

S. KANAKARATNARAJ,
Legal Remembrancer and
Secretary to Government, Law Department.

ACT No. XL OF 1946.

The Official Secrets (Emergency) Act, 1946.

(Received the Assent of His Highness the Maharaja on the 1st day of October 1946).

WHEREAS the Government of His Highnees the Maharaja is satisfied that circumstances exist which render it necessary to take immediate action to provide for certain matters relating to official secrets ;

NOW THEREFORE in exercise of the powers conferred by sub-section (1) of section 31 of the Government of Mysore Act, 1940 (XVIII of 1940) ;

It is hereby enacted as follows :—

Short title, extent and application.

1. (1) This Act may be called the Official Secrets (Emergency) Act, 1946.

(2) It extends to the whole of Mysore and applies also to all subjects of His Highness the Maharaja wherever they may be.

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context,—

(1) any reference to a place belonging to His Highness the Maharaja includes a place occupied by any Department of the Government or by the Palace Office, whether the place is or is not actually vested in His Highness the Maharaja ;

(1-A) any reference to a place belonging to His Majesty the King-Emperor includes a place occupied by any department of the Government of India whether the place is or is not actually vested in His Majesty the King-Emperor.

(2) expressions referring to communicating or receiving include any communicating or receiving, whether in whole or in part, and whether the sketch, plan, model, article, note, document, or information itself or the substance, effect or description thereof only be communicated or received; expressions referring to obtaining or retaining any sketch, plan, model, article, note or document, include the copying or causing to be copied of the whole or any part of any sketch, plan, model, article, note, or document; and expressions referring to the communication of any sketch, plan, model, article, note or document, include the transfer or transmission of the sketch, plan, model, article, note or document;

(3) "document" includes part of a document;

(4) "model" includes design, pattern and specimen;

(5) "munitions of war" includes the whole or any part of any aircraft, tank or similar engine, arms and ammunition or mine intended or adopted for use in war, and any other article, material, or device, whether actual or proposed, intended for such use;

(6) "Office under His Highness the Maharaja" includes any office or employment in or under any department of the Government and the Palace Office;

(7) "photograph" includes an undeveloped film or plate;

(8) "prohibited place" means.—

(*a*) any work of defence, arsenal, naval, military or air force establishment or station, mine, minefield, camp, or aircraft belonging to, or occupied by or on behalf of His Highness the Maharaja or His Majesty the King-Emperor, as the the case may be, any military telegraph or telephone so belonging

or occupied, any wireless or signal station or office so belonging or occupied and any factory or other place so belonging or occupied and used for the purpose of building, repairing, making or storing any munitions of war, or any sketches, plans, models or documents relating thereto or for the purpose of getting any metals, oil or minerals of use in time of war;

(*b*) any place not belonging to His Highness the Maharaja or His Majesty the King-Emperor where any munitions of war or any sketches, models, plans or documents relating thereto are being made, repaired, gotten or stored under contract with, or with any person on behalf of His Highness the Maharaja or His Majesty the King-Emperor, or otherwise on behalf of His Highness the Maharaja or His Majesty the King-Emperor;

(*c*) any place belonging to or used for the purpose of His Highness the Maharaja or His Majesty the King-Emperor which is for the time being declared by the Government by notification in the official Gazette to be a prohibited place for the purposes of this Act on the ground that information with respect thereto, or damage thereto, would be useful to an enemy, and to which a copy of the notification in respect thereof has been affixed in English and in Kannada;

(*d*) any railway, road, way or channel, or other means of communication by land or water (including any works or structures being part thereof or connected therewith) or any place used for gas, water or electricity works or other works for purposes of a public character, or any place where any munitions of war or any sketches, models, plans, or documents relating thereto, are being made, repaired or stored otherwise than on behalf of His Highness the Maharaja or His Majesty the King-Emperor, which is for the time being declared by the Government by notification in the official Gazette to be a prohibited place for the purposes of this Act on the

ground that information with respect thereto, or the destruction or obstruction thereof, or interference therewith, would be useful to an enemy, and to which a copy of the notification in respect thereof has been affixed in English and in Kannada;

(9) "sketch" includes any photograph or other mode of representing any place or thing; and

(10) "Superintendent of Police" includes any police officer of a like or superior rank, and any person upon whom the powers of a Superintendent of Police are for the purposes of this Act conferred by the Government.

3. (1) If any person for any purpose prejudicial to the safety or interests of the State— Penalties for spying.

(*a*) approaches, inspects, passes over or is in the vicinity of, or enters, any prohibited place; or

(*b*) makes any sketch, plan, model or note which is calculated to be or might be or is intended to be, directly or indirectly, useful to an enemy; or

(*c*) obtains, collects, records or publishes or communicates to any other person any secret official code or pass word, or any sketch, plan, model, article or note or other document or information which is calculated to be or might be or is intended to be, directly or indirectly, useful to an enemy;

he shall be punishable with imprisonment for a term which may extend, where the offence is committed in relation to any work of defence, arsenal, naval, military or air force establishment or station, mine, minefield, factory, camp, or aircraft or otherwise in relation to the naval, military or air force affairs of His Highness the Maharaja or His Majesty the King-Emperor or in relation to any secret official code, to fourteen years and in other cases to three years.

(2) On a prosecution for an offence punishable under this section with imprisonment for a term which may extend to fourteen years, it shall not be necessary to show that the accused person was guilty of any particular act tending to show a purpose prejudicial to the safety or

interests of the State, and notwithstanding that no such act is proved against him, he may be convicted if, from the circumstances of the case or his conduct or his known character as proved, it appears that his purpose was a purpose prejudicial to the safety or interests of the State; and if any sketch, plan, model, article, note, document, or information relating to or used in any prohibited place, or relating to anything in such a place, or any secret official code or pass word is made, obtained, collected, recorded, published or communicated by any person other than a person acting under lawful authority, and from the circumstances of the case or his conduct or his known character as proved it appears that his purpose was a purpose prejudicial to the safety or interests of the State, such sketch, plan, model, article, note, document or information shall be presumed to have been made, obtained, collected, recorded, published or communicated for a purpose prejudicial to the safety or interests of the State.

Communications with foreign agents to be evidence of commission of certain offences.

4. (1) In any proceedings against a person for an offence under section 3, the fact that he has been in communication with, or attempted to communicate with, a foreign agent, whether within or without Mysore, shall be relevant for the purpose of proving that he has, for a purpose prejudicial to the safety or interests of the State, obtained or attempted to obtain information which is calculated to be or might be or is intended to be, directly or indirectly, useful to an enemy.

(2) For the purpose of this section, but without prejudice to the generality of the foregoing provision,—

(*a*) a person may be presumed to have been in communication with a foreign agent if—

(i) he has, either within or without Mysore, visited the address of a foreign agent or consorted or associated with a foreign agent; or

(ii) either within or without Mysore, the name or address of, or any other information regarding, a foreign agent has been found in his possession, or has been obtained by him from any other person;

(*b*) the expression "foreign agent" includes any person who is or has been or in respect of whom it appears that there are reasonable grounds for suspecting him of being or having been employed by a foreign power,

either directly or indirectly, for the purpose of committing an act either within or without Mysore prejudicial to the safety or interests of the State, or who has or is reasonably suspected of having, either within or without Mysore, committed, or attempted to commit, such an act in the interests of a foreign power;

(*c*) any address, whether within or without Mysore, in respect of which it appears that there are reasonable grounds for suspecting it of being an address used for the receipt of communications intended for a foreign agent, or any address at which a foreign agent resides, or to which he resorts for the purpose of giving or receiving communications, or at which he carries on any business, may be presumed to be the address of a foreign agent, and communications addressed to such an address to be communications with a foreign agent.

Wrongful communication, etc., of information.

5. (1) If any person having in his possession or control any secret official code or pass word or any sketch, plan, model, article, note, document or information which relates to or is used in a prohibited place or relates to anything in such a place, or which has been made or obtained in contravention of this Act, or which has been entrusted in confidence to him by any person holding office under His Highness the Maharaja, or which he has obtained or to which he has had access owing to his position as a person who holds or has held office under His Highness the Maharaja, or as a person who holds or has held a contract made on behalf of His Highness the Maharaja, or as a person who is or has been employed under a person who holds or has held such an office or contract,—

(*a*) wilfully communicates the code or pass word, sketch, plan, model, article, note, document or information to any person other than a person to whom he is authorised to communicate it, or a Court of Justice or a person to whom it is, in the interests of the State, his duty to communicate it; or

(*b*) uses the information in his possession for the benefit of any foreign power or in any other

manner prejudicial to the safety of the State; or

(*c*) retains the sketch, plan, model, article, note or document in his possession or control when he has no right to retain it, or when it is contrary to his duties to retain it, or wilfully fails to comply with all directions issued by lawful authority with regard to the return or disposal thereof; or

(*d*) fails to take reasonable care of, or so conduct himself as to endanger the safety of, the sketch, plan, model, article, note, document, secret official code or pass word or information;

he shall be guilty of an offence under this section.

(2) If any person voluntarily receives any secret official code or pass word or any sketch, plan, model, article, note, document or information knowing or having reasonable ground to believe, at the time when he receives it, that the code, pass word, sketch, plan, model, article, note, document or information is communicated in contravention of this Act, he shall be guilty of an offence under this section.

(3) If any person having in his possession or control any sketch, plan, model, article, note, document or information, which relates to munitions of war, communicates it, directly or indirectly, to any foreign power or in any other manner prejudicial to the safety or interests of the State, he shall be guilty of an offence under this section.

(4) A person guilty of an offence under this section shall be punishable with imprisonment for a term which may extend to two years, or with fine, or with both.

Unauthorised use of uniforms; falsification of reports, forgery, personation and false documents.

6. (1) If any person for the purpose of gaining admission or of assisting any other person to gain admission to a prohibited place or for any other purpose prejudicial to the safety of the State,—

(*a*) uses or wears, without lawful authority any naval, military, air force, police or other official uniform, or any uniform so nearly resembling the same as to be calculated to deceive, or falsely represents himself to be a person who is or has been entitled to use or wear any such uniform; or

(*b*) orally, or in writing in any declaration or application, or in any document signed by him or on his behalf, knowingly makes or connives at the making of any false statement or any omission; or

(*c*) forges, alters, or tampers with any passport or any naval, military, air force, police, or official pass, permit, certificate, licence, or other document of a similar character (hereinafter in this section referred to as an official document) or knowingly uses or has in his possession any such forged, altered, or irregular official document; or

(*d*) personates, or falsely represents himself to be a person holding or in the employment of a person holding, office under His Highness the Maharaja, or to be or not to be a person to whom an official document or secret official code or pass word has been duly issued or communicated, or with intent to obtain an official document, secret official code or pass word, whether for himself or any other person, knowingly makes any false statement; or

(*e*) uses, or has in his posssesion or under his control without the authority of the department of the Government or the authority concerned any die, seal or stamp of or belonging to, or used, made or provided by any department of the Government, or by any military or air force authority appointed by or acting under the authority of His Highness the Maharaja, or any die, seal or stamp so nearly resembling any such die, seal or stamp as to be calculated to deceive, or counterfeits any such die, seal or stamp, or knowingly uses, or has in his possession or under his control, any such counterfeited die, seal or stamp;

he shall be guilty of an offence under this section.

(2) If any person for any purpose prejudicial to the safety of the State—

(*a*) retains any official document, whether or not completed or issued for use, when he has no right to retain it, or when it is contrary to

his duty to retain it, or wilfully fails to comply with any directions issued by any department of the Government or any person authorised by such department with regard to the return or disposal thereof; or

(*b*) allows any other person to have possession of any official document issued for his use alone, or communicates any secret official code or pass word so issued, or, without lawful authority or excuse, has in his possession any official document or secret official code or pass word issued for the use of some person other than himself, or in obtaining possession of any official document by finding or otherwise, wilfully fails to restore it to the person or authority by whom or for whose use it was issued, or to a police officer; or

(*c*) without lawful authority or excuse, manufactures or sells, or has in his possession for sale, any such die, seal or stamp as aforesaid;

he shall be guilty of an offence under this section.

(3) A person guilty of an offence under this section shall be punishable with imprisonment for a term which may extend to two years, or with fine or with both.

(4) The provisions of sub-section (2) of section 3 shall apply for the purpose of proving a purpose prejudicial to the safety of the State, to any prosecution for an offence under this section relating to the military or air force affairs of His Highness the Maharaja, or to any secret official code in like manner as they apply, for the purpose of proving a purpose prejudicial to the safety or interests of the State, to prosecutions for offences punishable under that section with imprisonment for a term which may extend to fourteen years.

Interfering with officers of the police or members of the military forces.

7. (1) No person in the vicinity of any prohibited place shall obstruct, knowingly mislead or otherwise interfere with or impede, any police officer, or any member of the military forces of His Highness the Maharaja or His Majesty the King-Emperor engaged on guard, sentry, patrol, or other similar duty in relation to the prohibited place.

(2) If any person acts in contravention of the provisions of this section, he shall be punishable with

imprisonment which may extend to two years, or with fine or with both.

Duty of giving information as to commission of offences.

8. (1) It shall be the duty of every person to give on demand to a Superintendent of Police, or other police officer not below the rank of Inspector, empowered by Inspector-General of Police in this behalf, or to any member of the military forces of His Highness the Maharaja or His Majesty the King-Emperor, engaged on guard, sentry, patrol, or other similar duty, any information in his power relating to an offence or suspected offence under section 3 or under section 3 read with section 9 and, if so required, and upon tender of his reasonable expenses, to attend at such reasonable time and place as may be specified for the purpose of furnishing such information.

(2) If any person fails to give any such information or to attend as aforesaid, he shall be punishable with imprisonment which may extend to two years, or with fine, or with both.

Attempts, incitements, etc.

9. Any person who attempts to commit or abets the commission of an offence under this Act shall be punishable with the same punishment, and be liable to be proceeded against in the same manner as if he had committed such offence.

Penalty for harbouring spies.

10. (1) If any person knowingly harbours any person whom he knows or has reasonable grounds for supposing to be a person who is about to commit or who has committed an offence under section 3 or under section 3 read with section 9 or knowingly permits to meet or assemble in any premises in his occupation or under his control any such persons, he shall be guilty of an offence under this section.

(2) It shall be the duty of every person having harboured any such person as aforesaid or permitted to meet or assemble in any premises in his occupation or under his control any such persons as aforesaid, to give on demand to a Superintendent of Police or other police officer not below the rank of Inspector empowered by the Inspector-General of Police in this behalf, any information in his power relating to any such person or persons, and if any person fails to give any such information, he shall be guilty of an offence under this section.

(3) A person guilty of an offence under this section shall be punishable with imprisonment for a term which may extend to one year, or with fine, or with both.

Search warrants.

11. (1) If a Magistrate of the first class is satisfied by information on oath that there is reasonable ground for suspecting that an offence under this Act has been or is about to be committed, he may grant a search-warrant authorising any police officer named therein, not being below the rank of an officer in charge of a police station, to enter at any time any premises or place named in the warrant, if necessary, by force, and to search the premises or place and every person found therein, and to seize any sketch, plan, model, article, note or document, or anything of a like nature, or anything which is evidence of an offence under this Act having been or being about to be committed which he may find on the premises or place or any such person, and with regard to or in connection with which he has reasonable ground for suspecting that an offence under this Act has been or is about to be committed.

(2) Where it appears to a police officer, not being below the rank of Superintendent, that the case is one of great emergency, and that in the interests of the State immediate action is necessary, he may, by a written order under his hand, give to any police officer the like authority as may be given by the warrant of a Magistrate under this section.

(3) Where action has been taken by a police officer under sub-section (2) he shall, as soon as may be, report such action to the District Magistrate of the District.

Power to arrest.

12. Notwithstanding anything in the Code of Criminal Procedure, 1904,—

(*a*) an offence punishable under section 3 or under section 3 read with section 9 with imprisonment for a term which may extend to fourteen years shall be a cognizable and non-bailable offence; and

(*b*) an offence under clause (*a*) of sub-section (1) of section 6 shall be a cognizable and bailable offence; and

(*c*) every other offence under this Act shall be a non-cognizable and bailable offence, in respect of which a warrant of arrest shall ordinarily issue in the first instance.

Restriction on trial of offences.

13. (1) No Court (other than that of a Magistrate of the first class specially empowered in this behalf by the Government) which is inferior to that of a District Magistrate shall try any offence under this Act.

(2) If any person under trial before a Magistrate for an offence under this Act at any time before a charge is

framed claims to be tried by the Court of Session, the Magistrate shall, if he does not discharge the accused, commit the case for trial by that Court notwithstanding that it is not a case exclusively triable by that Court.

(3) No Court shall take cognizance of any offence under this Act unless upon complaint made by order of, or under authority from the Government, or some officer empowered by the Government in this behalf:

Provided that a person charged with such an offence may be arrested, or a warrant for his arrest may be issued and executed, and any such person may be remanded in custody or on bail, notwithstanding that such complaint has not been made, but no further or other proceedings shall be taken until such complaint has been made.

(4) For the purposes of the trial of a person for an offence under this Act, the offence may be deemed to have been committed either at the place in which the same actually was committed or at any place in Mysore in which the offender may be found.

Exclusion of public from proceedings

14. In addition and without prejudice to any powers which a Court may possess to order the exclusion of the public from any proceedings, if, in the course of proceedings before a Court against any person for an offence under this Act, or the proceedings on appeal, or in the course of the trial of a person, under this Act, application is made by the prosecution, on the ground that the publication of any evidence to be given or of any statement to be made in the course of the proceedings would be prejudicial to the safety of the State, that all or any portion of the public shall be excluded during any part of the hearing, the Court may make an order to that effect, but the passing of sentence shall in any case take place in public.

Offence by Companies, etc.

15. Where the person guilty of an offence under this Act is a company or corporation, every director and officer of the company or corporation with whose knowledge and consent the offence was committed shall be guilty of the like offence.

A. RAMASWAMI MUDALIAR,
Dewan.